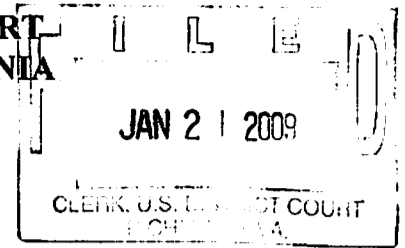


**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**



DERRICK JEROME HAWTHORNE,)
)
 Plaintiff,)
)
 v.)
)
 MR. GARRETT,)
)
 Defendant.)

Civil Action No. 3:08CV309-HEH

**MEMORANDUM OPINION
(Dismissing Without Prejudice 42 U.S.C. § 1983 Action)**

Plaintiff, a Virginia prisoner, has filed this complaint claiming that the food served to him at the Hampton Roads Regional Jail is often undercooked and unclean. A prisoner is prohibited from proceeding *in forma pauperis*:

[I]f the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.

28 U.S.C. § 1915(g). In his affidavit in support of his request to proceed *in forma pauperis*, Plaintiff represented that he did not have any cases that were dismissed as frivolous, malicious, or for failure to state a claim upon which relief could be granted. However, research reveals that Plaintiff has filed at least three cases that were dismissed as frivolous, malicious, or for failure to state a claim upon which relief could be granted. *See Hawthorne v. Governor Don Siegelman*, No. 2:00cv0100 (N.D. Ala. Mar. 2, 2000)

